

INTERPRETATIONS

§ 12.101 National bank disclosure of remuneration for mutual fund transactions.

A national bank may fulfill its obligation to disclose information on the source and amount of remuneration, required by § 12.4, for mutual fund transactions by providing this information to the customer in a current prospectus, at or before completion of the securities transaction. The OCC's view is consistent with the position of the Securities and Exchange Commission (SEC) as provided in a no-action letter dated March 19, 1979, which permits confirmations for mutual funds to refer to the sales load disclosed in the prospectus. See Letter to the Investment Company Institute, *reprinted in* [1979 Transfer Binder] Fed. Sec. L. Rep. (CCH) 82041 (Mar. 19, 1979). The OCC would reconsider its position upon any change in the SEC's practice.

§ 12.102 National bank use of electronic communications as customer notifications.

(a) In appropriate situations, a national bank may satisfy the "written" notification requirement under §§ 12.4 and 12.5 through electronic communications. Where a customer has a facsimile machine, a national bank may fulfill its notification delivery requirement by sending the notification by facsimile transmission. Similarly, a bank may satisfy the notification delivery requirement by other electronic communications when:

- (1) The parties agree to use electronic instead of hard-copy notifications;
- (2) The parties have the ability to print or download the notification;
- (3) The recipient affirms or rejects the trade through electronic notification;
- (4) The system cannot automatically delete the electronic notification; and
- (5) Both parties have the capacity to receive electronic messages.

(b) The OCC would consider the permissibility of other situations using electronic notifications on a case-by-case basis.

PART 13—GOVERNMENT SECURITIES SALES PRACTICES

Sec.

- 13.1 Scope.
- 13.2 Definitions.
- 13.3 Business conduct.
- 13.4 Recommendations to customers.
- 13.5 Customer information.

INTERPRETATIONS

13.100 Obligations concerning institutional customers.

AUTHORITY: 12 U.S.C. 1 *et seq.*, and 93a; 15 U.S.C. 78o-5.

SOURCE: 62 FR 13283, Mar. 19, 1997, unless otherwise noted.

§ 13.1 Scope.

This part applies to national banks that have filed notice as, or are required to file notice as, government securities brokers or dealers pursuant to section 15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and part 401).

§ 13.2 Definitions.

(a) *Bank that is a government securities broker or dealer* means a national bank that has filed notice, or is required to file notice, as a government securities broker or dealer pursuant to section 15C of the Securities Exchange Act (15 U.S.C. 78o-5) and Department of the Treasury rules under section 15C (17 CFR 400.1(d) and part 401).

(b) *Customer* does not include a broker or dealer or a government securities broker or dealer.

(c) *Government security* has the same meaning as this term has in section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)).

(d) *Non-institutional customer* means any customer other than:

- (1) A bank, savings association, insurance company, or registered investment company;
- (2) An investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); or
- (3) Any entity (whether a natural person, corporation, partnership, trust, or otherwise) with total assets of at least \$50 million.